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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,787	01/02/2002	Jason C. Killo	6232-231 (158420)	9223

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EXAMINER

JOHNSON, BLAIR M

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant N .

10/039,787

Applicant(s)

KILLO ET AL.

Examiner

Blair M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-49 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 112***

Claims 7 and 30-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7, the crosssection of a tire, about any axis, is not circular as recited.

In claim 30, "audible noise is substantially reduced" is a subjective and narrative statement.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 45-48 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fukada.

The "drive system" is met by manual operation of the curtain.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bratschi.

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The level of sound emanating from a curtain system is clearly dependent on several obvious factors. For example, the overall speed at which the curtain operates greatly affects the operating sound. A slow speed would reduce noise. Size of the device would also affect sound. It is inherent that a curtain system having a slow speed and/or a short run would produce less noise. Furthermore, while the noise level of the Bratschi device is not known, reduced noise is clearly a well known objective. It would have been obvious to modify Bratschi to reduce noise by, for example, selection of a quiet motor, quiet materials of construction, such as plastics, etc.

Regarding claims 23 and 24, Bratschi discloses "reduction gearing", column 2, lines 13-14. While he does not elaborate further, right angle drive gearing is commonly used to both reduce the drive speed as well as to accommodate housings for specific applications. It would have been obvious to modify the motor and gearing of Bratschi whereby he has such gearing.

Claims 1-5,7,10,11,15-21,34-39 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bratschi in view of Fukada and further in view of Whitley.

Bratschi discloses a motor driven drapery system which uses a belt 6, master carriers 33, etc., and auxiliary carriers 39. As seen in Fig. 12, the belt 6 has a separate compartment from that which accommodates the carriers. Bratschi does not disclose rollers. However, such are well known in the art, as illustrated by Fukada, who shows rollers mounted in curved tracks. In view of this teaching, it would have been obvious to modify Bratschi whereby the slides are replaced with rollers, which in the case of the master carrier would constitute two pairs of rollers, one for each of the spaced slides 30.

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The belt 6 is elastic, as pointed out in column 3, line 47. Furthermore, the present disclosure states on page 6 that the use of resilient material for the belt is well known but that the present material is softer than that of the prior art. This teaching by Bratschi as well as this admission of prior art by Applicant clearly meets the broad limitations regarding the material. Regarding the more specific limitations concerning the softness of the material, such is considered to be well within the purview of one of ordinary skill in the art. Noise and the cause of the noise in these devices is readily recognized.

Rendering an already soft material even softer to dampen noise even more is clearly an extension of what is already known, thereby rendering such as obvious. Regarding the wheels, the use of separate soft tires is taught by Whitley in Figs. 6 and 7, with the tires in Fig. 7 entirely covering the sides of the wheel. In view of this teaching, it would have been obvious to modify the wheels of Fukada to have such dampening means, which have the specific hardness recited. The specific material of the tires and the belt is clearly an obvious design choice.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bratschi in view of Fukada and Whitley as applied above, and further in view of Japanese patent No. 3-280,907.

Toothed belts and corresponding pulleys are well known in the art and replacing the apertured belt and pulley of Bratschi with such would have been obvious so as to provide for easier replacement, by virtue of slipping the belt off the pulley.

By Claim <sup>6</sup> is rejected under 35 U.S.C. 103(a) as being unpatentable over Bratschi in view of Fukada and Whitley as applied above, and further in view of Weber.

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Such mounting brackets are recited are well known the track art, as illustrated by Weber. It would have been obvious to modify Bratschi whereby his track is mounted to an overhead surface by way of the track and bracket of Weber.

Claims 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bratschi in view of Fukada and Whitley as applied above, and further in view of Burns.

Providing a coating of a surface of a curtain track to promote less friction and hence less noise is well known as illustrated by Burns at 20, Fig. 2. In view of this teaching, it would have been obvious to modify the track of Bratschi to have such a coating. Again, the specific material used, in this case for the track and the coating, is clearly an obvious design choice.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bratschi in view of Fukada and further in view of Japanese patent No. 3-280,907.

These references are applied here as above.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bratschi in view of Fukada and Japanese '907 as applied above and further in view of Whitley.

These references are applied here as above.

Claims 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukada in view of Whitley.

Whitley is applied to Fukada as above. Regarding the specific angles and relative size of the connecting member and the slot, the Fukada device appears in Fig. 8 to be capable of tilting as recited. The specific size of the slot and connecting member is considered to be an obvious variable.

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Claims 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comeau.

See plastic belt 62. The specific hardness of the material of the belt constitutes an obvious design modification, as discussed above.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Comeau in view of Japanese '907.

'907 is applied here as it has been applied above.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Comeau in view of Heyer.

It is widely known to provide drive belts with wire reinforcements, as illustrated by Heyer. It would have been obvious to modify Comeau whereby his belt has such reinforcements so as to strengthen the belt.

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (703) 308-0526. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

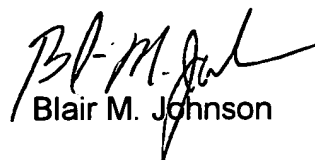
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305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.



Blair M. Johnson

Primary Examiner  
Art Unit 3634

BMJ  
March 21, 2003